

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare-East Godavari District- Revision Petition filed U/S 6 of A.P.S.A.L.T.R 1959 by Sri Yalagala Nageswara Rao (S.T.) S/o Ayyanna R/o Indukuru Village, Devipatnam (M) East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, East Godavari District in C.M.A No: 20/2007, dated 20-07-2011 - Allowed - Orders - Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms No: 29

Dated: 29-08-2012
Read the following:

1. Revision Petition dated:21-11-2011 filed by Sri Yalagala Nageswara Rao
2. Government Memo No.17427/LTR-2/2011,dated 06-01-2012 addressed to the Addl. Agent to Govt./ PO,ITDA,R.C.Varam
3. From PO,ITDA,R.C.Varam Ref.CMA/20/2007 dt.02.03.2012.
4. Government Letter No: 17427/LTR-2/2011 dated: 18.04.2012

ORDER:

In the reference 1st read above, Sri Yalagala Nageswara Rao (S.T.) S/o Ayyanna has filed a Revision Petition before the Government against the Orders of the Additional Agent to Government, Rampachodavaram in C.M.A No: 20/2007 dated 20-07-2011 in respect of land measuring Hec.0.94 and 2.65.5 Acres in Sy.No.177/3 and 182 at Lothupalem(V), Devipatnam(M) East Godavari District.

2. The main grounds of the appellant in Revision Petition among others are as given below:

- i. The orders of the Additional Agent To Government , Rampachodavaram is illegal, contrary to law and facts
- ii. The Additional Agent to Government, Rampachodavaram ought not have passed orders inspite of appeal withdrawn by the appellant in the appeal.
- iii. The Additional Agent To Government, Rampachodavaram without following the provisions of Regulation Act not considered the will deed executed by the great father of the petitioner i.e. Yelegala Veerappa Dora on 12-06-1925 on the ground that the same is not registered one , but as per the Registration Act the will deed is not necessary to registered.
- iv. The Special Deputy Collector, rightly allowed the petition. The petitioner being aboriginal Tribal Community of Konda Dora and he and his ancestors are not aware of the legal obligations and not maintained the land records.
- v. The Additional Agent To Government ought not to have given a finding that the petitioner is no way concerned with the suit property.
- vi. The Revision Petitioner is owner of the said lands till today.

3. The brief History of the case is that the Sri Y.Nageswara Rao (ST) has filed a petition before the Special Deputy Collector for restoration of P.S. land after ejecting the Non Tribal (Mallipudi Nalla Abbulu) after giving opportunity to the both parties the Special Deputy Collector(TW) observed that Sri Y.Nageswara Rao(ST) deposed that he knows the P.S.Land and his Great Grand father Y.Veerapudora acquired the P.S. and clearing the jungle and cultivated the same by his family members, later the Non Tribal (Sri Chaluvada Seetayya and Sri Oleti Chenchu Subbayya) occupied the P.S.Land taking innocence of their family members with malified intention against the A.P.S.A.L.T Regulations. Later Sri Chaluvada Seetayya and Sri Oleti Chenchu Subbayya given the land to the Non Tribal (Sri Mallipudi Nallaabbulu) by way of mortgage, now they enjoying the land, the Tribal Petitioner prayed the court that to restore the P.S.Land acquired by his ancestors, and filed Adangal copy Fasali

(P.T.O.)

1413. The Special Deputy Collector after giving opportunity and with the available original records observed that the N.T (Abbulu) not filed any documents to prove his right over the suit lands. In exercise of powers conferred U/s 3(2) (a) of APSALTR 1959 r/w 1/70, the Special Deputy Collector, Rampachodavaram, East Godavari District passed the ejectment order to NT (Abbulu) and any other from the P.S. Land and restored of the same to the Tribal Petitioner (Y.Nageswara Rao) vide LTRP NO.4/07, dt 4.9.2007.

4. Aggrieved by the orders of the Special Deputy Collector, Rampachodavaram, Sri Mallipudi Nalla Abbulu had filed an appeal petition before the Additional Agent to Government, Rampachodavaram. The Additional Agent To Government upon perusing the affidavit filed by the SDT(TW) Devipatnam and hearing the matter of both the parties and after perusing the material documents available on records suspended the orders of the Special Deputy Collector(TW) in LTRP No.4/2007 in the order dated 1.12.2007 in CMP No.1/2007 until the disposal of the appeal in CMA No. 20/2007 and directed the Tahsildar, Devipatnam to take over the possession of the lands covered under CMA No.20/2007 and kept the possession with him until further orders.

5. Aggrieved by the orders passed by the Additional Agent to Government, Sri Y.Nageswara Rao (Tribal) filed WP No.26053/07 and obtained stay of eviction on 6.12.2007. In the mean time he had been evicted. Then he filed a contempt case No. 711/2008 on the file of the Hon'ble Court and the same was dismissed by the Hon'ble Court in its order dated 18.10.2008 as the Writ Petitioner was already evicted on 3.12.2007 from the lands in question.

6. The Additional Agent to Government, Rampachodavaram in exercise of the powers conferred by sub section(3) of Rule 8 of the Andhra Pradesh Scheduled areas Land Transfer rules, 1969 and Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by 1970, partially set aside the orders passed by the Special Deputy Collector(TW), Rampachodavaram in LTRP NO 4/2007, dated 4.9.2007 I.e, issued for restoration of the lands measuring Hec 0.94 Ares in Sy No 177/3 and Hec 2.65.5 Acres in Sy No. 182 of Lothupalem village of Devipatnam Mandal in East Godavari District to Sri Yalagala Nageswara Rao (Tribal) the 1st respondent herein as it is contrary to law and not valid under Andhra Pradesh Scheduled Area Land Regulation (APSALR) of 1959 as amended by 1 of 1970, and also ordered to restore the lands to Government.

7. The Tahsildar, Devipatnam Mandal directed to evict the non Tribal respondents or any other person bound by this order and restore the same to the Government if not already done for onward assignment to the eligible tribal and comply the report vide CMA No 20/07,dated 30-7-2010.

8. Aggrieved by the orders of Additional Agent to Government, Rampachodavaram Sri Yelagala Nageswar Rao S/o Ayyanna has filed a Revision Petition before the Government on 28-11-2011.

9. In the reference 2nd read above the Project Officer, ITDA /Additional Agent to Government, Rampachodavaram was requested to furnish parawise remarks and connected records vide Govt. Memo No 17427/LTR-2/11, dated 6-1-2012 and the same were furnished in the reference 3rd read above. The Appeal Petition heard on 30.4.2012. Though notices were served to Sri Mallipudi Nalla Abbulu and Oleti Venkata Subbaiah, through the Additional Agent to Government & Project Officer, I.T.D.A., Rampachodavaram in the reference 4th read above, only the Appellant has attended the hearing through his counsel and submitted written arguments.

10. On perusal of the material evidence of documents and keeping in view the original documents produced by the petitioner, it is found that:-

- i. The respondents have produced a copy of the sale deed, wherein the extent only has been indicated without any specific Sy No. and in the said document no names of his ancestors are figured.

- ii. The Additional Agent to Government without considering the withdrawal petition of Sri M.Nalla Abbulu has passed suo-moto orders and taken over the land from the petitioner, which contrary and against to law.
- iii. Govt. observed that there is no proper evidence to prove that the ancestors of the appellant have transferred the scheduled land in favour of the respondents and even if the alleged transfer of the scheduled land in favour of Sri M.Nalla Abbulu (NT) subsequently is true, the same is violation of the LTR. The Appellant has produced certain copies of the documents in support of his claim.
- iv. The Special Deputy Collector (TW), Rampachodavaram has rightly observed that the appellant, being a tribe has produced sufficient reasons to prove his right over the scheduled land, whereas the Non Tribal Respondents failed to produce any valid documents to prove their right over the scheduled land. As per the documents and record, the possession of the respondents over the scheduled land is against the LTR. It appears that the Tribal Appellant's claim is worth consideration.

11. Government after careful examination of the facts and records of the case, hereby set aside the orders of the Additional Agent to Government and Project Officer, ITDA, Rampachodavaram in CMA No.20/2007 dated 30.07.2011 and uphold the orders dated 4.9.2007 passed by the Special Deputy Collector (TW) Rampachodavaram, in LTRP No 4/2007, restoring the scheduled land in favour of the tribal Appellant. Accordingly the Revision Petition disposed off.

12. The Collector, East Godavari District/Additional Agent to Government, Rampachodavaram is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.A.VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT(TW)

To:

The Collector, East Godavari District.
The Additional Agent to the Government,
(Project Officer, I.T.D.A.) Rampachodavaram, East Godavari District.
The Special Deputy Collector (T.W.),
Rampachodavaram, East Godavari District.
The Mandal Revenue Officer, Devipatnam (M), East Godavari District.
The P.S. to Minister for Tribal Welfare.
Sri Yalagala Nageswara Rao S/o Ayyanna
R/o Indukuru Village, Devipatnam (M), East Godavari District
Sri Mallipudi Nalla Abbulu,S/oMangaraju,
R/o Indukuru Village,Devipatnam Mandal,East Godavari District
Voleti Venkata Subbaiah ,S/o Chenchu Subbaiah,
R/o Mongalluru Village,Vengandla Mandal,Prakasham District

// FORWARDED :: BY ORDER //

SECTION OFFICER